

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DENNIS J. DONOGHUE; and MARK	:	
RUBENSTEIN,	:	
	:	
Plaintiffs,	:	23-CV-4480 (VSB)
	:	
-against-	:	<u>ORDER</u>
	:	
SILVERSUN TECHNOLOGIES, INC.,	:	
	:	
Nominal Defendant,	:	
	:	
and	:	
	:	
MILTON C. AULT, III; AULT GLOBAL	:	
HOLDINGS, INC.; and DIGITAL POWER	:	
LENDING, LLC	:	
	:	
Defendants.	:	
	:	
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VERNON S. BRODERICK, United States District Judge:

Plaintiffs filed this action on May 30, 2023. (Doc. 1.) Defendants Milton Ault, Ault Global Holdings, Inc. and Digital Power Lending, LLC (the “Ault Defendants”) filed a motion to dismiss the complaint for lack of Article III standing. (Doc. 8.) After the parties briefed the motion, (Docs. 9, 12, 13), I granted Plaintiffs’ motion to stay proceedings pending the Second Circuit’s resolution of an issue dispositive to the motion to dismiss, (Doc. 17).

The Second Circuit has now issued its decision and denied rehearing in the dispositive case. *See Packer on behalf of 1-800-Flowers.Com, Inc. v. Raging Cap. Mgmt., LLC*, 105 F.4th 46 (2d Cir. 2024), *reh’g denied*, No. 23-367 (2d Cir. Aug. 8, 2024) (order). The Ault Defendants have submitted a letter informing me that upon the Court of Appeals’ denial of rehearing, they withdraw their motion to dismiss. (Doc. 20.) I will therefore treat the motion as withdrawn, and

lift the stay on the proceedings in this case.

Accordingly, it is hereby:


ORDERED that the stay in this case is lifted.

IT IS FURTHER ORDERED that, by August 23, 2024, the parties submit an Amended Case Management Plan and Scheduling Order.

The Clerk of Court is therefore respectfully directed to terminate the pending motion to dismiss at Document 8.

SO ORDERED.

Dated: August 12, 2024
New York, New York


Vernon S. Broderick
United States District Judge